

Existing law prohibits illegal remuneration, including kickbacks, bribes, rebates, or bed hold payments, for certain activities as they pertain to the Louisiana medical assistance program (Medicaid), and provides for civil fines and penalties for illegal remuneration.

New law creates the crime of fraudulent remuneration. Provides criminal penalties for activities considered illegal remuneration under existing law. Specifically, provides that fraudulent remuneration is the intentional solicitation, receipt, offer, or payment of any remuneration, including but not limited to kickbacks, bribes, rebates, or bed hold payments, directly or indirectly, overtly or covertly, in cash or in kind, to or from a third party for the following:

- (1) In return for the referral of an individual to a health care provider for the purpose of referring an individual to a health care provider, for the purpose of providing any good, service, or supply, billed to Medicaid.
- (2) In return for purchasing, leasing, or ordering, or for arranging or recommending for the purchasing, leasing, or ordering, of any good, supply, service, or facility billed to Medicaid.
- (3) For the recruitment of new patients for the purpose of providing any good, supply, service, or facility billed to Medicaid.
- (4) To any recipient or his representative, for goods, services, supplies, or facilities furnished to the recipient and billed to Medicaid.
- (5) For the furnishing of a list of number(s), name(s), or any other identifying information of recipients of goods and services furnished under Medicaid.

New law provides "safe harbor" exemptions as provided in existing law for illegal remuneration, as follows:

- (1) A discount or other reduction in price obtained by a health care provider under Medicaid if the reduction in price is properly disclosed to the Dept. of Health and Hospitals (DHH) and is reflected in the claim made by the health care provider.
- (2) Any amount paid by an employer to an employee, who has a bona fide employment relationship with such employer, for the provision of covered goods, services, or supplies.
- (3) Any discount amount paid by a vendor of goods, services, or supplies to a person authorized to act as a purchasing agent for a group of health care providers who are furnishing goods, services, or supplies paid or reimbursed under Medicaid provided the following criteria are met:
 - (a) The person acting as the purchasing agent has a written contract with each health care provider specifying the amount to be paid to the purchasing agent, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such health care provider under the contract, or a combination of both.
 - (b) The health care provider discloses the information contained in the required written contract to the secretary of the Dept. of Health and Hospitals (the DHH secretary) in such form or

manner as required under rules and regulations promulgated by the DHH secretary in accordance with the Administrative Procedure Act (APA).

- (4) Any other "safe harbor" exception created by federal or state law or by rule.

New law defines a "kickback" as any money, fee, commission, or similar compensation provided either directly or indirectly to a person to induce or to compensate him for the referral of patients or medically related business.

New law provides for criminal penalties of imprisonment, with or without hard labor, for not more than five years, and/or a fine of not more than \$20,000. Specifies that penalties are in addition to any liability for civil monetary penalties as provided elsewhere in existing law.

(Adds R.S. 14:70.5)